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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,629	10/29/2001	Anthony C. Vrba	1001.1514101	9211

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EXAMINER

HO, UYEN T

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 08/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/020,629

Applicant(s)

VRBA ET AL.

Examiner

(Jackie) Tan-Uyen T. Ho

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-29 and 31-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-29 and 31-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

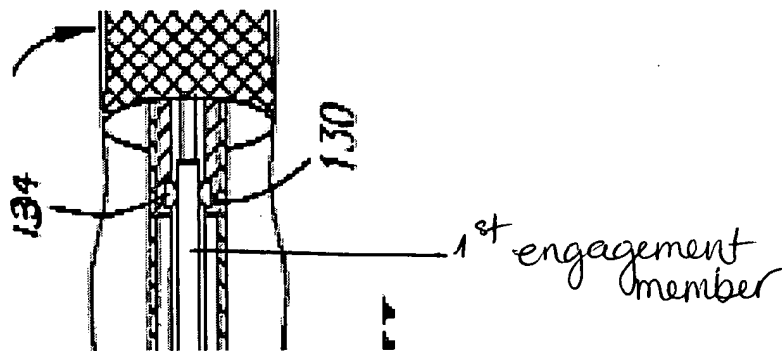
Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/22/06 have been fully considered but they are not persuasive. Applicant amended the claims to include a first engagement member and a second engagement member and argued that Khosravi does not appear to have any structure shaped and configured to engage a retrieval device as is recited in amended claim 43. Examiner disagrees. Khosravi disclose a filter cartridge (fig. 1) with a distal region and proximal region, the proximal region comprising first engagement member (21, fig. 1), a retrieval device (fig. 2H) comprising a second engagement member (134) that is shaped and configured to engage the first engagement member on the filter cartridge proximal region. See illustration of a portion of figure 2H as follow:



Applicant also argued that it is not well known to have the ridges and an increased coefficient of friction on an outer surface of the proximal region of a filter cartridge and with respect to the use of radiopaque bands proximate an inflatable cuff.

To support the well known in the previous office action, Examiner provides herewith the documentary evidences:

- Daniel et al. 5,814,064, Figs. 13A/B and col. 8, lines 21-41, teaches a filter carrier (fig. 13A/B) having a first engagement member having ridges/protrusions (134) and a second engagement member being expandable engaging the ridges/protrusions (134) in order to enhance the locking and prevent the movement of the filter carrier relative to a member (132) of a retrieval device.
- Green (6,485,501) discloses a proximal of a filter cartridge being made from radiopaque band (171) including protrusion (172, col. 10, lines 45-67) to enhance the locking engaging with a second engagement of a retrieval device.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 43 is rejected under 35 U.S.C. 102(e) as being anticipated by Khosravi (6,361,546). Khosravi disclose a filter cartridge (fig. 1) with a distal region and proximal region, the proximal region comprising first engagement member (21, fig. 1), a retrieval device (fig. 2H) comprising a second engagement member (134) that is shaped and configured to engage the first engagement member on the filter cartridge proximal region.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-29, 31-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khosravi (6,361,546). Khosravi discloses all the limitations of the claims except for the presence of ridges to further prevent the cartridge moving distally beyond a capture means and a radiopaque band on the proximal region.

Regarding to the ridges, although, Khosravi does not disclose ridges/flanges at the proximal region of the filter cartridge or an increased coefficient of friction on an outer surface region of the proximal region of the filter cartridge, it is known in the art that ridge or ridges/flanges (see documentary support Green 6,485,501) enhance the prevention of the movement of one member sliding relatively to the other or increasing coefficient of friction on a captured surface or capture means surface would enhance the prevention of movement of the captured member relative the capturing member. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ flanges/ridges into or modify the cartridge surface or cuff surface to enhance the prevention of the cartridge moving relative to the retrieval catheter.

Although, Khosravi does not disclose a radiopaque band on the proximal region and/or radiopaque band proximate to inflatable cuff, it is well known in the art to provide a radiopaque marker band on the proximal region of a filter or proximate to capturing means in order to locate the filter or the capturing means within a body lumen (see documentary support Green 6,485,501). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a radiopaque marker band to the proximal region of the filter cartridge in order to locate the filter cartridge at the target site. Doing so would inherently modify the surface of the cartridge such that adding a band radiopaque at the proximal region would increase the coefficient of friction.

Note: The combination teaching of Khosravi in view of well-known teaching in the art such as Green 6,485,501 would result the claimed invention in order to enhance the locking mechanism and provide visibility under imaging system for delivering, deploying and withdrawing the filter.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



(Jackie) Tan-Uyen T. Ho
Primary Examiner
Art Unit 3731

July 31, 2006